

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.2076 Sales to Purchasers Performing Contracts with Governmental Bodies

TITLE 86: REVENUE

PART 130

RETAILERS' OCCUPATION TAX

Section 130.2076 Sales to Purchasers Performing Contracts with Governmental Bodies

- a) Generally, a government contractor who purchases items to fulfill his obligations under a contract with a governmental unit purchases those items for use. See, U.S. v. New Mexico, 455 U.S. 720, 102 S.Ct. 1373 (1982). However, if the contract with the governmental unit explicitly requires the contractor to sell those items to the governmental unit, the purchase of those items by the contractor can be structured as purchases for the purpose of resale to the governmental unit. Sales of tangible personal property to the contractor in this situation are exempt from Retailers' Occupation Tax as sales for resale if the following conditions are met:
 - 1) There is a contract between the purchaser and the governmental body that requires the purchaser to provide tangible personal property to the governmental body.
 - 2) The contract is specific in documenting a sale of tangible personal property from the purchaser to the governmental body. The contract must specify that the tangible personal property is transferred to the governmental body. However, the contract does not have to be item specific. For example, a statement that title to all of the tangible personal property that is purchased shall pass to the governmental body is sufficient. The transfer may be immediate or subsequent to the completion of the contract.
- b) The exemption in subsection (a) above applies to tangible personal property that is used or consumed in the performance of a contract with a governmental body and to which title passes to the governmental body under the terms of the contract. For example, the exemption applies to consumable supplies, such as fuel, that a purchaser uses to fulfill the contract with the governmental body so long as the conditions set forth in subsection (a) are met.
- c) A supplier claiming exemption shall have among his records a Certificate of Resale from the purchasing government contractor that conforms to the requirements set forth in Section 130.1405.

(Source: Added at 25 Ill. Reg. 10917, effective August 13, 2001)

